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PATENT
Atty. Docket No. PAT051716-US-PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: W. Michael Kavanaugh et al.

Serial No.: 10/530,000 ✓ Group Art Unit: to be assigned

Filed: June 19, 2007 Examiner: to be assigned

For: ANTI-CANCER AND ANTI-INFECTIOUS DISEASE COMPOSITIONS
AND METHODS FOR USING SAME

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This response is directed to the Restriction Requirement dated March 5, 2010 for which a one-month period for response was given making this response due on or before April 5, 2010. A request and fee for a one month extension of time from April 5, 2010 to May 5, 2010 is submitted herewith. As such, this response is timely filed.

In response to the Restriction Requirement, Applicants elect to pursue Group I, claims 149-175, directed to a method of the prevention or treatment of a disease or a symptom thereof through the administration of a non-pathogenic insect-specific virus. This election is made without prejudice, and Applicants reserve the right to pursue claims 176-196 in divisional applications. This election is made with traverse.

In the Restriction Requirement, the Examiner requires further species election to:

- a) one of the cancers in claim 155;
- b) one of the viral particle types in claim 164; and
- c) one of the inactivation methods in claims 168 and 169.

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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Mail Stop _____, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 28 day of April, 20 10.
By [Signature]

The Applicants submit that the generic claims encompass these species and therefore the Examiner's search would not be unduly extensive and burdensome (MPEP §803.02 and §809.02). The Examiner has not provided a rational for the further species election by showing: a) a separate classification, b) separate status in the art or c) why these claims would require a different field of search (MPEP §808.02). Because there is no clear indication that claims 155, 164, 168 and 169 are of a separate classification, separate status or why they would require a different field of search, there is no reason for further division of the invention. As such, the Applicants respectfully request withdrawal of the species election of claims 155, 164, 168 and 169.